

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

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DOCKET NO.: SDWA-08-2005-0053

IN THE MATTER OF:)	
)	
STEVE STURTZ)	FINAL ORDER
d/b/a Dillon Auto Repair)	
)	
RESPONDENT)	

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

07.05.06

DATE

SIGNED

Elyana R. Sutin
Regional Judicial Officer

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No.: SDWA-08-2005-0053

In the Matter of:)	
)	
Steve Sturtz d/b/a)	
Dillon Auto Repair)	CONSENT AGREEMENT
)	
Respondent.)	

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, Steve Sturtz d/b/a Dillon Auto Repair (Respondent), by his undersigned representative, hereby consent and agree as follows.

BACKGROUND

1. EPA issued to Respondent a Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing (Complaint) filed on September 6, 2005, alleging violations of Part C of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h et seq., and the implementing regulations relating to underground injection control (UIC) program.
2. The Complaint alleged that Respondent violated 40 C.F.R. § 144.12(c) and (d) and 40 C.F.R. § 144.88(b) by failing to submit a written schedule for retrofitting its Class V disposal system (the system) and/or plugging the system. The system was located at Respondent's business, Dillon Auto Repair, at 2050 North U.S. Highway 91, Dillon,

Montana. The Complaint also alleged that Respondent violated 40 C.F.R. § 144.12(a) and 40 C.F.R. § 144.88(b) for failure to close or retrofit the system in a manner that would keep contaminants from entering an underground source of drinking water (USDW). Additionally, the Complaint alleged Respondent violated 40 C.F.R. § 144.26(d) and 40 C.F.R. § 144.83(a) for failing to submit for each Class V well: a facility name and location; name and address of legal contact; statement of ownership; nature and type of injection well; and operating status of injection well.

3. Respondent hereby states that he has permanently closed the system described in paragraph 2, above.
4. To resolve this matter, the parties agree to a settlement requiring the payment by Respondent of a civil penalty in the amount of one hundred dollars (\$100.00). The penalty amount of \$100.00 is disparate from the twenty-eight thousand (\$28,000.00) proposed in the Complaint due to the fact that Respondent asserted and demonstrated to EPA an inability to pay the proposed penalty. EPA believes the settlement amount is reasonable, taking into consideration the statutory factors in section 1423(c)(4)(B) of the SDWA and particularly the financial data submitted to EPA by Respondent.
5. Respondent admits that EPA has the jurisdictional authority to issue the Complaint and settle this case pursuant to this Consent Agreement, but does neither admits nor denies the remaining allegations, including the findings and the alleged violations.
6. This Consent Agreement applies to and is binding upon EPA and upon Respondent and his successors and assigns.

7. Respondent waives its right to contest any issue of law or fact set forth in the Complaint and knowingly agrees to waive its right to a hearing on this matter under section 1423(c)(3)(a) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(a), and to appeal this matter under SDWA section 1423(c)(6), 42 U.S.C. § 300h-2(c)(6).

Civil Penalty

8. Respondent consents to the issuance of the Consent Agreement and for the purposes of settlement to the payment of a civil penalty.
9. Respondent shall, not more than thirty (30) calendar days after the date of the signed Final Order in this matter, submit a cashier's or certified check in the amount of amount of \$100.00 (one hundred dollars), payable to "Treasurer, United States of America" to:

EPA - Region 8
Regional Hearing Clerk
Post Office Box 360859
Pittsburgh, Pennsylvania 15251.

10. A copy of the check identified in paragraph 9 shall be simultaneously mailed to the following addresses:

Tina Artemis, Regional Hearing Clerk
U.S. EPA, Region 8 (8RC)
999 18th Street, Suite 300
Denver, Colorado 80202-2466, and

and

Marc Weiner, Enforcement Attorney
U.S. EPA, Region 8 (8ENF-L)
999 18th Street, Suite 300
Denver, Colorado 80202-2466.

GENERAL PROVISIONS

11. This Consent Agreement contains all the terms of the settlement agreed to by the parties.
12. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the SDWA and its implementing regulations.
13. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.
14. Nothing in this Consent Agreement shall be construed as a waiver by the EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Agreement.
15. Each party shall bear its own costs and attorneys fees in connection with this matter.
16. The parties agree to submit this Consent Agreement to the Regional Judicial Officer with a request that it be incorporated into a Final Order.

17. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

STEVE STURTZ D/B/A DILLON AUTO REPAIR
Respondent

Date: 06/21/06

By: SIGNED

Steve Sturtz d/b/a Dillon Auto Repair

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Date: 06/30/2006

By: Eddie A. Sierra for/

Carol Rushin

Assistant Regional Administrator

Office of Enforcement, Compliance

And Environmental Justice

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER**, in the matter of **STEVE STURTZ d/b/a DILLON AUTO REPAIR, DOCKET NO.: SDWA-08-2005-0053** was filed with the Regional Hearing Clerk on July 5, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Marc Weiner, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on May 23, 2006, to:

J. Blaine Anderson, Jr.
Attorney at Law
310 E. Seberree Street
P. O. Box 1425
Dillon, MT 59725

And hand-carried to:

Honorable Elyana R. Sutin
Regional Judicial Officer
U. S. Environmental Protection Agency
999 18th Street, Suite 300 (8RC)
Denver, CO 80202-2466

July 5, 2006

SIGNED_____

Tina Artemis
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
ON JULY 5, 2006.**